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Deliver to: Lee, Phillip C., USPTO Art Group: 2154
 Facsimile No.: (571) 273-8300 Date: October 22, 2007
 From: Brent E. Vecchia, Reg. No. 48,011
 Our Docket No.: 42390P11076 Number of pages 32 including this sheet.
 Application No.: 09/877,687 Filing Date: 6/8/2001
 Docket Due Date(s): 10/20/2007

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<input checked="" type="checkbox"/> Appeal Brief (<u>28</u> pgs)	<input type="checkbox"/> Notice of Appeal (in duplicate)
<input type="checkbox"/> Application: _____ (<u>28</u> pgs) w/cover & abstract	<input type="checkbox"/> Petition for: _____
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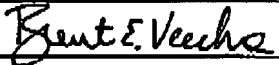
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application No.	09/877,687
		Filing Date	June 8, 2001
		First Named Inventor	Yen-Kuang Chen
		Art Unit	2154
		Examiner Name	Lee, Phillip C.
Total Number of Pages in This Submission	32	Attorney Docket Number	42390P11076

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; height: 60px; width: 100%;"></div>
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Firm or Individual name	Brent E. Vecchia, Reg. No. 48,011 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
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FEE TRANSMITTAL for FY 2007 <small>Patent fees are subject to annual revision.</small>		Complete if Known		OCT 22 2007
		Application Number	09/877,687	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.		Filing Date	June 8, 2001	
		First Named Inventor	Yen-Kuang Chen	
TOTAL AMOUNT OF PAYMENT (\$) 510.00		Examiner Name	Lee, Phillip C.	
		Art Unit	2154	
		Attorney Docket No.	42390P11076	

METHOD OF PAYMENT (check all that apply)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP	
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<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20. <input checked="" type="checkbox"/> Credit any overpayments	

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Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	460	2252	230	Extension for reply within second month	
1253	1,050	2253	525	Extension for reply within third month	
1254	1,640	2254	820	Extension for reply within fourth month	
1255	2,230	2255	1,115	Extension for reply within fifth month	
1401	510	2401	255	Notice of Appeal	
1402	510	2402	255	Filing a brief in support of an appeal	510.00
1403	1,030	2403	515	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	810	1809	405	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	810	2810	405	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)					510.00

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Brent E. Vecchia	Registration No. (Attorney/Agent)	48,011
Signature	<i>Brent E. Vecchia</i>	Telephone	(303) 740-1980
		Date	10/22/07

Based on PTO/SB/17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (wtr) 12/19/2004.
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CENTRAL FAX CENTER****OCT 22 2007****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. : 09/877,687
1st Named Inventor : Matthew J. Holliman
Filed : May 21, 2007
Docket No. : 42P11076

Confirmation No. : 9438
Art Unit : 2152
Examiner : Lee, Philip C.
Customer No. : 8791

Mail Stop Appeal Brief-Patents
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P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF
IN SUPPORT OF APPELLANT'S APPEAL
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

This brief is in furtherance of the Notice of Appeal, filed in the above-captioned case on August 20, 2007. Applicants (hereafter "Appellants") hereby submit this Brief (37 C.F.R. § 41.37). The fees required under § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying Transmittal of Appeal Brief. Appellants respectfully request consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the above-captioned patent application.

An oral hearing is not desired.

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01 FC:1402 510.00 DA

Docket No. 42P11076

-1-

App. No.: 09/877,687

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Page 21 of this brief bears the practitioner's signature.

I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is Intel Corporation of 2200 Mission College Boulevard, Santa Clara, California, 95052, to whom the invention is assigned.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be affected by, or have a bearing on the Board's decision in this appeal, to the best of Appellant's knowledge, there are no such appeals or interferences.

III. STATUS OF THE CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))

The status of the claims in this application are:

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims 80-109 are currently pending in the application.

B. STATUS OF ALL THE CLAIMS

1. Claims cancelled: 1-79.
2. Claims withdrawn from consideration but not cancelled: NONE.
3. Claims pending: 80-109.
4. Claims allowed: NONE.
5. Claims rejected: 80-109.

C. CLAIMS ON APPEAL

Claims 80-109 are on appeal.

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

A response was not submitted to the Final Office Action mailed on May 21, 2007. A copy of all claims on appeal is attached hereto as an appendix of claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

Embodiments of the invention pertain to providing a multimedia peer-to-peer computing platform. See e.g., the Title.

Independent claim 80 pertains to a method according to a first embodiment of the invention. The method includes a first peer node (120 in FIG. 1) receiving an inquiry for data from a second peer node (121 in FIG. 1). See e.g., page 23, lines 2-3 (abstract) and page 18, line 2 (original claim 14). The inquiry includes a user specified search string (See e.g., page 11, lines 19-20 [paragraph 0034]) and specifies a format for the data (See e.g., column 9, lines 20-23 [paragraph 0027] and column 19, lines 1-2 [original claim 19]). A cost value is generated based in part on conversion of the data to the specified format. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The cost value is added to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The first peer node converts the data into the specified format before transmitting the data to the second peer node. See e.g., page 18, lines 7-8 (original claim 14), column 9, lines 20-23 (paragraph 0027) and column 19, lines 1-2 (original claim 19). The data is transmitted to the second peer node in a transport specification specified by the second peer node. See e.g., page 18, lines 9-10 (original claim 14), page 18, lines 12-13 (original claim 15), page 23, lines 6-7 (abstract).

Independent claim 92 pertains to an article, according to a second embodiment of the invention. The article comprises a computer-readable medium which stores computer-executable instructions. See e.g., page 20, lines 9-10 (original claim 29). The instructions cause a first peer node (120 in FIG. 1) to receive an inquiry for data from a second peer node (121 in FIG. 1). See e.g., page 23, lines 2-3 (abstract) and page 18, line 2 (original claim 14). The inquiry including a user specified search string (See e.g., page 11, lines 19-20 [paragraph 0034]) and specifying a format for the data (See e.g., column 9, lines 20-23 [paragraph 0027] and

column 19, lines 1-2 [original claim 19]). The instructions cause the first peer node to generate a cost value based in part on conversion of the data to the specified format. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The instructions cause the first peer node to add the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The instructions cause the first peer node to convert the data to the specified format. See e.g., page 18, lines 7-8 (original claim 14), column 9, lines 20-23 (paragraph [0027]) and column 19, lines 1-2 (original claim 19). The instructions cause a first peer node to transmit the converted data in the specified format to the second peer node in a transport protocol as specified by the second peer node. See e.g., page 18, lines 9-10 (original claim 14), page 18, lines 12-13 (original claim 15), page 23, lines 6-7 (abstract). The specified transport protocol is a User Datagram Protocol (UDP). See e.g., page 1, lines 18-23 (paragraph [0003] and page 6, lines 5-21 (paragraphs [0017]-[0018]).

Independent claim 101 pertains to a system, according to a third embodiment of the invention. The system includes a processing unit, a memory device, a network interconnection, and a first unit. See e.g., page 16, lines 3-7 (original claim 1). The first unit is to process an inquiry for data from a peer node. See e.g., page 23, lines 2-3 (abstract) and page 18, line 2 (original claim 14). The inquiry including a user specified search string (see e.g., page 11, lines 19-20 [paragraph 0034]) and specifying a format for the data (see e.g., column 9, lines 20-23 [paragraph [0027] and column 19, lines 1-2 [original claim 19]). The operations include generating a cost value based in part on conversion of the data to the specified format. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The operations include adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node. See e.g., page 9, lines 7-11 [paragraph 0025], page 10, lines 4-9 [paragraph 0028], and page 13, lines 11-19 [paragraph 0040]. The operations include converting the data to the

specified format before transmitting the data to the peer node. See e.g., page 18, lines 7-8 (original claim 14), column 9, lines 20-23 (paragraph [0027]) and column 19, lines 1-2 (original claim 19). The operations include transmitting the data to the peer node in a transport protocol specified by the peer node See e.g., page 18, lines 9-10 (original claim 14), page 18, lines 12-13 (original claim 15), page 23, lines 6-7 (abstract). The transport protocol is User Datagram Protocol. See e.g., page 1, lines 18-23 (paragraph [0003] and page 6, lines 5-21 (paragraphs [0017]-[0018]).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(v))

- A. Claims 80-109 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and**
- B. Claims 80-82, 84, 86, 88, 91-94, 96, 100-102 and 105-107 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0073204 by Dutta et al. (hereinafter "Dutta"), U.S. Patent No. 6,687,753 issued to Schneider (hereinafter "Schneider"), U.S. Patent No. 6,778,496 issued to Meempat et al. (hereinafter "Meempat"), and U.S. Patent No. 6,965,569 issued to Carolan et al. (hereinafter "Carolan").**

VII. ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

- A. Rejection of claims 80-109 under 35 U.S.C. § 112, second paragraph, is improper.**

GROUP I: CLAIM 80

The Examiner has asserted that "As per claim 80, line 5, it is unclear if 'a cost value' refers to 'a cost value' in line 4".

Appellants respectfully disagree. Claim 80 recites as follows:

"A method comprising:

a first peer node receiving an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generating a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

the first peer node converting the data into the specified format before transmitting the data to the second peer node;

transmitting the data to the second peer node in a transport specification specified by the second peer node".

Appellants respectfully submit that claim 80 is clear. As intended, claim 80 makes it clear that there are two cost values, not just a single cost value. Line 4 recites "*generating a cost value*". This is a first cost value, which is properly introduced with "a". Line 5 recites "*adding the cost value*". The term "the cost value" uses "the" to indicate that it is the first cost value that, which has already been introduced, which is being referred to. There is proper antecedent basis. Line 5 further recites "*to a packet that also includes a cost value generated by another peer node*". This is a second cost value, which is properly introduced with "a". Claim 80 intends this to be a second cost value instead of the first cost value, and this is correctly set forth in the claim. Accordingly, Appellants respectfully submit that claim 80 is clear.

Accordingly, Appellants respectfully submit that the rejection of Group I under 35 U.S.C. § 112, second paragraph is improper.

GROUP II: CLAIM 92

The Examiner has further asserted "As per claim 92, line 6, it has the same problem as claim 80 above".

Appellants respectfully disagree. Claim 92 recites as follows:

"An article comprising a computer-readable medium which stores computer-executable instructions, the instructions causing a first peer node to:

receive an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generate a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format; and

transmit the converted data in the specified format to the second peer node in a transport protocol as specified by the second peer node, wherein the specified transport protocol is a User Datagram Protocol (UDP)".

Appellants respectfully submit that claim 92 is clear. As intended, claim 92 makes it clear that there are two cost values, not just a single cost value. These two cost values are properly introduced. The discussion above is pertinent to this point. For brevity, the detailed explanation given above will not be repeated, unless the Examiner requests further explanation.

Accordingly, Appellants respectfully submit that the rejection of Group II under 35 U.S.C. § 112, second paragraph is improper.

GROUP III: CLAIMS 101

The Examiner has further asserted "As per claim 101, line 10, it has the same problem as claim 80 above.

Appellants respectfully disagree. Claim 101 recites as follows:

*"A system comprising:
a processing unit;
a memory device;
a network interconnection; and
a first unit to cause the system to,
process an inquiry for data from a peer node, the inquiry including a user specified search string and specifying a format for the data,
generate a cost value based in part on conversion of the data to the specified format,
adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;
convert the data to the specified format before transmitting the data to the peer node, and
transmit the data to the peer node in a transport protocol specified by the peer node, wherein the transport protocol is User Datagram Protocol".*

Appellants respectfully submit that claim 101 is clear. As intended, claim 101 makes it clear that there are two cost values, not just a single cost value. These two cost values are properly introduced. The discussion above is pertinent to this point. For brevity, the detailed explanation given above will not be repeated, unless the Examiner requests further explanation.

Accordingly, Appellants respectfully submit that the rejection of Group III under 35 U.S.C. § 112, second paragraph is improper.

B. Rejection of claims 80-82, 84, 86, 88, 91-94, 96, 100-102 and 105-107 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0073204 by Dutta et al. (hereinafter "Dutta"), U.S. Patent No. 6,687,753 issued to Schneider (hereinafter "Schneider"), U.S. Patent No. 6,778,496 issued to Meempat et al. (hereinafter "Meempat"), and U.S. Patent No. 6,965,569 issued to Carolan et al. (hereinafter "Carolan") is improper.

GROUP I: CLAIMS 80-92, 84, 86, 88, and 91

Applicants respectfully submit that: (1) Dutta, Schneider, Meempat, and Carolan should not be combined; (2) any combination of Dutta, Schneider, Meempat, and Carolan, which combination does not even seem appropriate, still does not teach or suggest all of the limitations of claims 80; and (3) the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined

Firstly, Dutta, Schneider, Meempat, and Carolan do not contain any suggestion that they be combined, let alone that they be combined in the manner suggested by the Examiner. Accordingly, Dutta, Schneider, Meempat, and Carolan should not be combined.

Secondly, at least two of Dutta, Schneider, Meempat, and Carolan are from non-analogous arts. As discussed in the MPEP 2141.01(a), to rely on a reference under 35 U.S.C. 103, it must be analogous prior art. *"In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned."* In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See

also In re Deminski, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). An inventor could not possibly be aware of every teaching in every art. In re Wood, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979).

Dutta pertains to peer-to-peer data networks (see e.g., the Title).

Schneider pertains to **client-server** computer networks (see e.g., the abstract and the Field of the Invention). Schneider does not even mention the word "peer". The problems addressed in the client-server computer networks of Schneider would not logically have commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. The Examiner has failed to provide sufficient justification why methods of Schneider that reportedly are useful in a client-server environment would be useful in a peer-to-peer environment. In particular, it is well known that a server generally has much more extensive computational capabilities than a client, and approaches for providing three-dimensional graphics in a client-server environment as taught in Schneider would not necessarily have logically commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. Accordingly Dutta and Schneider are from non-analogous arts and should not be combined.

Meempat also does not appear to pertain to peer-to-peer networks. There is no mention of the word "peer" in Meempat. Furthermore, column 1, lines 9-13 of Meempat mentions that "[the present invention] finds particular application in conjunction with controlling admission of Voice-Over IP (VoIP) calls to a packet-based network, and efficiently selecting paths for the admitted calls, so as to balance the packet loads within the network". Column 2, lines 8-9 of Meempat mentions that "[The present invention contemplates a new and improved method and apparatus for call management over IP networks". Applicants respectfully submit that the methods of call management, such as for Voice-Over IP (VoIP) calls, over IP networks discussed in Meempat should not be combined with the peer-to-peer networks of Dutta.

Carolan also does not appear to pertain to pccr-to-peer networks. There is no mention of the word “peer” in Carolan. Furthermore, Carolan specifically mentions “*The present invention is a distributed conversion system that is centrally managed*”. See e.g., the first line of the Summary of the Invention. Applicants respectfully submit that such a distributed conversion system with central management should not be combined with the peer-to-peer networks of Dutta. Accordingly, Dutta, Schneider, and Carolan are from non-analogous arts and should not be combined.

Accordingly, Appellants respectfully submit that at least two of Dutta, Schneider, Meempat, and Carolan are from non-analogous arts.

Thirdly, it seems likely that it would be necessary to make modifications that are not taught or suggested in the prior art in order to combine Dutta, Schneider, Meempat, and Carolan in the manner suggested by the Examiner. This is especially true given the vast differences in the technical fields of the four references.

Accordingly, for one or more of the above-identified reasons, Dutta, Schneider, Meempat, and Carolan should not be combined.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 80 pertains to a method comprising:

*“a first peer node receiving an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;
generating a cost value based in part on conversion of the data to the specified format;*

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

the first peer node converting the data into the specified format before transmitting the data to the second peer node;

transmitting the data to the second peer node in a transport specification specified by the second peer node”.

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations.

Dutta appears to be the only reference that pertains to peer-to-peer networks. However, Dutta fails to disclose many of the limitations recited in claim 80. In particular, Dutta does not disclose that a first peer node receive an inquiry for data from a second peer node that **specifies a format for data**. Further, Dutta does not disclose transmitting the data to the second peer node in a **transport specification specified by the second peer node**. Still further, Dutta does not disclose the first peer node **converting the data into the specified format**. Further, Dutta does not disclose **generating a cost value based in part on the conversion of the data to the specified format**. Still further, Dutta does not disclose **adding the cost value to a packet that also includes a cost value generated by another peer node** and then providing the packet to the second peer node. Accordingly, Dutta fails to disclose many of the limitations presently recited in claim 80.

The other references, namely Schneider, Meempat and Carolan, do not appear to pertain to peer-to-peer networks. At least the word “peer” is not mentioned in any of these references. Appellants respectfully submit that it is inherently improper for the Examiner to read so many limitations from these non-peer-to-peer references into Dutta, which is the only peer-to-peer reference of the four. Furthermore, Appellants respectfully submit that the fact that the Examiner apparently was unable to find another peer-to-peer reference disclosing more of the limitations of claim 80 than Dutta (which fails to disclose many of the limitations) is evidence of non-obviousness.

The Examiner has admitted that Dutta does not teach specifying a format for the data (see e.g., page 3 of the Final Office Action), and has relied upon Schneider for that. Schneider discusses that a **client** could specify a transmission protocol and a **server** could format information to be transmitted in response to the client request. However, these are **client** and **server** methodologies. It is not taught in the references or obvious that these **client** and **server** methodologies be used in the **peer-to-peer** networks of Dutta. In particular, servers generally have extensive computational capabilities. Many peer computers do not. Accordingly, the approaches for providing three-dimensional graphics in a client-server environment as taught in Schneider would not necessarily have logically commended themselves to an inventors attention when he/she was considering the problems addressed in the peer-to-peer data networks of Dutta. Accordingly, it would not be obvious to combine the teachings of Dutta and Schneider as proposed by the Examiner.

The Examiner has admitted that Dutta and Schneider do not teach generating a cost value (see e.g., page 4 of the Final Office Action), and has relied upon Meempat for that. In particular, the Examiner has asserted that "*Meempat teaches generating and adding cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to a second peer node*" and relies upon column 2, lines 15-25 of Meempat. Column 2, lines 15-25 discusses:

"a method of regulating admission of packet streams to a network includes at selected times sending path status messages along a set of paths in the network. A cost metric in each path status message is updated at the intermediate nodes as the message progresses along its defined path. Based on the final cost metric values collected upon receipt of the status messages at the respective path edges, subsequent packet stream arrivals are selectively blocked or admitted to the network".

As understood by Appellants, there is no disclosure in Meempat that the cost value be generated based in part on **format conversion** of the data inquired by a peer node, let alone based on conversion to a **format specified in an inquiry for data**. Rather, as discussed in the Abstract, "*The cost metric may reflect available bandwidth, or percentage utilization of the*

aggregate bandwidth, on the most congested (bottleneck) link in the path that it tracks". Additionally, the cost metrics discussed in Meempat are apparently used for the purpose of **regulating admission of packet streams to a network**. Appellants respectfully submit that the Examiner has failed to provide sufficient reasoning why it would be obvious to use these cost metrics in a peer-to-peer node instead of merely for the mentioned purpose of regulating admission of packet streams to a network.

The Examiner has admitted that Dutta, Schneider, and Meempat do not teach that the cost value is based in part on conversion (see e.g., page 4 of the Final Office Action), and has relied upon Carolan for that. Furthermore, Carolan specifically mentions "*The present invention is a distributed conversion system that is centrally managed*". See e.g., the first line of the Summary of the Invention. Applicants respectfully submit that the Examiner has failed sufficiently establish that it is obvious to take pieces from this distributed conversion system with central management and apply them to the peer-to-peer networks of Dutta.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

For at least one or more of these reasons, claim 80 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

GROUP II: CLAIMS 92-94, 96, and 100**(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined**

Applicants respectfully submit that Dutta, Schneider, Meempat, and Carolan should not be combined. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 92 pertains to:

"An article comprising a computer-readable medium which stores computer-executable instructions, the instructions causing a first peer node to:

receive an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generate a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format; and

transmit the converted data in the specified format to the second peer node in a transport protocol as specified by the second peer node, wherein the specified transport protocol is a User Datagram Protocol (UDP)".

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

For at least one or more of these reasons, claim 92 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

GROUP III: CLAIMS 101-102 and 105-107

(1) Dutta, Schneider, Meempat, and Carolan Should Not Be Combined

Applicants respectfully submit that Dutta, Schneider, Meempat, and Carolan should not be combined. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(2) In Addition, Any Combination of Dutta, Schneider, Meempat and Carolan Does Not Disclose All of the Limitations of the Independent Claims

Furthermore, even if Dutta, Schneider, Meempat and Carolan are combined, which does not even seem appropriate, the combination still does not disclose all of the limitations of the independent claims.

Claim 101 pertains to a system comprising:

"a processing unit;

a memory device;

a network interconnection; and

a first unit to cause the system to,

process an inquiry for data from a peer node, the inquiry including a user specified search string and specifying a format for the data.

generate a cost value based in part on conversion of the data to the specified format.

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format before transmitting the data to the peer node, and

transmit the data to the peer node in a transport protocol specified by the peer node, wherein the transport protocol is User Datagram Protocol”.

Dutta, Schneider, Meempat and Carolan do not disclose or render obvious these limitations. The discussion above is pertinent to this point. For brevity, these arguments will not be needlessly repeated, unless requested.

(3) Thirdly, the fact that the Examiner needed to combine such a large number of references (four), from such different and in some cases non-analogous arts, in order to meet the claimed invention, is evidence that the invention is not obvious.

For at least one or more of these reasons, claim 101 and its dependent claims are believed to be allowable over Dutta, Schneider, Meempat, and Carolan.

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Based on the foregoing, Appellants request that the Board overturn the rejection of all pending claims and hold that all of the claims of the present application are allowable.

Appellants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

Please charge any shortages and credit any overpayment to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 10/22/07

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VIII. CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

The text of the claims involved in the appeal are:

Claims 1-79 (Cancelled)

80. (Previously Presented) A method comprising:

a first peer node receiving an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data:

generating a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

the first peer node converting the data into the specified format before transmitting the data to the second peer node;

transmitting the data to the second peer node in a transport specification specified by the second peer node.

81. (Previously Presented) The method of claim 80, wherein generating the cost value includes generating a cost value that is based in part on a network route to deliver the data to the second peer node.

82. (Previously Presented) The method of claim 80, further comprising sending a packet comprising the cost value to the second peer node.

83. (Previously Presented) The method of claim 80, further comprising:

the first peer node receiving a battery status of the second peer node; and

the first peer node reacting to the received battery status by changing a transport protocol that is used to transmit the data to the second peer node.

84. (Previously Presented) The method of claim 80, wherein the data is converted based on a status of a network connection between the first peer node and the second peer node.

85. (Previously Presented) The method of claim 84, wherein the data is converted to a lower bitrate format when the network connection is congested.

86. (Previously Presented) The method of claim 80, further comprising the first peer node obtaining the data from a third peer node prior to transmitting the data to the first node.

87. (Previously Presented) The method of claim 80, wherein converting comprises converting between MPEG 2 and MPEG 4.

88. (Previously Presented) The method of claim 80, wherein converting comprises converting between a Microsoft(R) PowerPoint(R) format and a GIF format.

89. (Previously Presented) The method of claim 80, wherein transmitting the data to the second peer node in the transport specification specified by the second peer node comprises deciding to transmit in UDP instead of TCP.

90. (Previously Presented) The method of claim 80, wherein receiving the inquiry includes receiving an inquiry specifying a file type.

91. (Previously Presented) The method of claim 80, wherein the data includes multimedia data.

92. (Previously Presented) An article comprising a computer-readable medium which stores computer-executable instructions, the instructions causing a first peer node to:

receive an inquiry for data from a second peer node, the inquiry including a user specified search string and specifying a format for the data;

generate a cost value based in part on conversion of the data to the specified format;

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format; and

transmit the converted data in the specified format to the second peer node in a transport protocol as specified by the second peer node, wherein the specified transport protocol is a User Datagram Protocol (UDP).

93. (Previously Presented) The article of claim 92, wherein the instructions cause the first peer node to generate the cost value based in part on a network route to deliver the data to the second peer node.

94. (Previously Presented) The article of claim 92, wherein the instructions further cause the first peer node to send a packet comprising the cost value to the second peer node.

95. (Previously Presented) The article of claim 92, wherein the instructions further cause the first peer node to react to a battery status received from the second peer node by changing a transport protocol that is used to transmit data to the second peer node.

96. (Previously Presented) The article of claim 92, wherein the instructions cause the first peer node to convert the data based on a status of a network connection between the first peer node and the second peer node.

97. (Previously Presented) The article of claim 92, wherein the instructions cause the first peer node to convert between different MPEG formats.

98. (Previously Presented) The article of claim 92, wherein the instructions causing the first peer node to transmit the data to the second peer node in the transport specification specified by the second peer node further cause the first peer node to decide to transmit in UDP instead of TCP.

99. (Previously Presented) The article of claim 92, wherein the instructions cause the first peer node to receive an inquiry specifying a file type.

100. (Previously Presented) The article of claim 92, wherein the article includes one or more selected from a memory device, an optical disk, and a magnetic disk.

101. (Previously Presented) A system comprising:

a processing unit;

a memory device;

a network interconnection; and

a first unit to cause the system to,

process an inquiry for data from a peer node, the inquiry including a user specified search string and specifying a format for the data,

generate a cost value based in part on conversion of the data to the specified format,

adding the cost value to a packet that also includes a cost value generated by another peer node and then providing the packet to the second peer node;

convert the data to the specified format before transmitting the data to the peer node, and

transmit the data to the peer node in a transport protocol specified by the peer node, wherein the transport protocol is User Datagram Protocol.

102. (Previously Presented) The system of claim 101, wherein the peer node is a wireless device, and wherein the system further comprises an application support handler to adjust delivery of the data to a status of the peer node.

103. (Previously Presented) The system of claim 101, further comprising a programmatic access for applications of the system to a peer-to-peer service layer.

104. (Previously Presented) The system of claim 101, further comprising a table mapping user-defined names or metadata references to Globally Unique Identifiers identifying data stored within a network of peer-to-peer nodes.

105. (Previously Presented) The method of claim 101, wherein the first unit is to cause the system to generate the cost value based in part on a network route to deliver the data to the peer node.

106. (Previously Presented) The method of claim 101, wherein the first unit is to cause the system to send a packet comprising the cost value to the peer node.

107. (Previously Presented) The method of claim 101, wherein the first unit is to cause the system to convert the data based on a status of a network connection with the peer node.

108. (Previously Presented) The method of claim 101, wherein the first unit is to cause the system to convert between MPEG 2 and MPEG 4.

109. (Previously Presented) The method of claim 101, wherein the first unit is to cause the system to decide to transmit in UDP instead of TCP based on the inquiry.

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IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

To the best of Appellant's knowledge, no evidence has been submitted pursuant to 37 CFR Sections 1.130, 1.131, or 1.131.

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

(To the best of Appellant's knowledge, there are no related appeals or interferences.)